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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**  
9 **AT SEATTLE**

10 FATIMA MOUJTAHID, on behalf of herself  
11 and her minor child, BADR MOUJTAHID,

12 Plaintiff,

13 JAY GAIRSON, in his professional capacity  
14 as the requester on behalf of his clients Fatima  
15 and Badr Moujtahid,

16 Nominal Plaintiff,

17  
18 v.

19 UNITED STATES CITIZENSHIP AND  
20 IMMIGRATION SERVICES (“USCIS”);  
21 UNITED STATES DEPARTMENT OF  
22 HOMELAND SECURITY (“DHS”);  
23 NATIONAL RECORDS CENTER (“NRC”);  
24 KIRSTJEN NIELSEN, in her official capacity  
25 as Secretary of the DHS; L. FRANCIS  
26 CISSNA, in his official capacity as Director of  
27 USCIS; and JILL A. EGGLESTON, in her  
28 official capacity as the USCIS and NRC  
FOIA/PA Public Liaison.

Defendants.

COMPLAINT

Case No: 2:18-cv-1789

**COMPLAINT FOR DECLARATORY  
RELIEF AND INJUNCTIVE RELIEF  
FOR VIOLATION OF THE FREEDOM  
OF INFORMATION ACT, 5 U.S.C. § 552 et  
seq.**

## INTRODUCTION

1. Jay Gairson filed a FOIA request with the DHS/USCIS/NRC on behalf of Plaintiffs Fatima Moujtahid and Badr Moujtahid on October 25, 2018 via an email to [uscis.foia@uscis.dhs.gov](mailto:uscis.foia@uscis.dhs.gov). The filed FOIA request included an expedite request based on public and due process interests. The Defendants did not send the Plaintiffs a response to their properly filed FOIA request. After more than 40 days had passed, Jay Gairson sent a follow-up email to the Defendants requesting an update on the processing of the request. On December 6, 2018, the Defendants using the email address [foiapaquestions@uscis.dhs.gov](mailto:foiapaquestions@uscis.dhs.gov) responded that the Defendants “were unable to locate your request in the system.” Plaintiffs are now suing the Defendants due to the Defendants’ failure to “determine within 20 days (excepting Saturdays, Sundays, and public legal holidays) after the receipt of any such request whether to comply with such request” and their failure to “immediately notify the person making such request”. Plaintiffs seek a declaratory judgment and an injunction requiring the Defendants to process the FOIA request immediately. Plaintiffs also seek an order enjoining Defendants from assessing fees for the processing of the FOIA request.

## JURISDICTION AND VENUE

2. Plaintiffs allege violations of the Freedom of Information Act (“FOIA”). This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
3. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) because Plaintiffs most recent residence is in this district and Plaintiff Gairson’s principal place of business is in this district.
4. Plaintiffs have exhausted all applicable administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

## PARTIES

5. Plaintiff Fatima Moujtahid is a national of Morocco and Belgium. She is also the recipient of an approved immigrant petition based on the Violence Against Women Act (VAWA). She is the mother of Badr Moujtahid. Her permanent domicile is in Snohomish County, Washington. She is represented by her attorney, Jay Gairson.

- 1 6. Plaintiff Badr Moujtahid is the minor child of Plaintiff Fatima Moujtahid. He is the  
2 derivative recipient of Plaintiff Fatima Moujtahid's VAWA petition. He is represented by his  
3 attorney, Jay Gairson.
- 4 7. Nominal Plaintiff Jay Gairson is the attorney for Fatima Moujtahid and Badr Moujtahid. He  
5 represents them as a private attorney general in a RICO case filed against unlicensed  
6 practitioners of immigration law. He filed the FOIA request at issue in this case on behalf of  
7 Fatima Moujtahid and Badr Moujtahid and is listed as the requester. He is included as a  
8 plaintiff in his professional capacity on behalf of Plaintiffs Moujtahid. His business, Gairson  
9 Law, LLC, is located in King County, Washington.
- 10 8. Defendant the Department of Homeland Security ("DHS") is a cabinet department of the  
11 United States federal government responsible for immigration-related services (USCIS),  
12 enforcement (Immigration and Customs Enforcement), and investigations (Homeland  
13 Security Investigations), among other duties. DHS replaced legacy the Immigration and  
14 Naturalization Service on March 1, 2003, and distributed it into USCIS, Immigration and  
15 Customs Enforcement, and Customs and Border Protection. DHS oversees USCIS and its  
16 implementation of federal law and policy with respect to immigration benefits applications.
- 17 9. Defendant U.S. Citizenship and Immigration Services ("USCIS") is an agency of the  
18 Department of Homeland Security ("DHS"), and is responsible for overseeing the  
19 adjudication of immigration benefits. USCIS implements federal law and policy with respect  
20 to immigration benefits applications.
- 21 10. Defendant National Records Center ("NRC") acts as the internal record-keeper for USCIS  
22 and is the main office for processing of FOIA/PA requests.
- 23 11. Defendant Kirstjen Nielsen is the Secretary of DHS, the department under which USCIS and  
24 several other immigration agencies operate. Accordingly, Kirstjen Nielsen has supervisory  
25 responsibility over USCIS and NRC. Plaintiffs sue Kirstjen Nielsen in her official capacity.
- 26 12. Defendant L. Francis Cissna is the Director of USCIS, the agency under which the NRC  
27 operates. Accordingly, L. Francis Cissna has supervisory responsibility over USCIS and  
28 NRC. Plaintiffs sue L. Francis Cissna in his official capacity.

13. Defendant Jill A. Eggleston is the FOIA/PA Public Liaison at the NRC for USCIS. She establishes and implements FOIA/PA response policies. Plaintiffs sue Jill A. Eggleston in her official capacity.

#### LEGAL FRAMEWORK

14. FOIA's basic purpose is for government transparency and to help protect the public interest. It establishes the public's right to access all federal agency records unless such records may be withheld pursuant to one of nine narrowly construed FOIA exemptions. 5 U.S.C. §§ 552(b)(1)-(9).

15. FOIA imposes strict and rigorous deadlines on federal agencies when they receive requests for records pursuant to the FOIA. An agency must determine whether to disclose responsive records and must immediately notify the requester of its determination within 20 working days of receiving a FOIA request. It must then make its records promptly available to the requester, unless it can establish that certain unusual circumstances are present and that it may lawfully withhold records, or portions thereof, from disclosure. 5 U.S.C. §§ 552(a)(3)(A), (a)(6). Furthermore, within 20 working days, the agency must inform the requester that it has a right to appeal the agency's determination. 5 U.S.C. § 552(a)(6)(A)(i).

16. FOIA places the burden on the agency to produce the records in a timely manner or to prove that it may withhold responsive records from the requester. 5 U.S.C. § 552(a)(4)(B).

17. An agency may be entitled to one ten-day extension of the time to respond to a request, if it provides written notice to the requester explaining that "unusual circumstances" exist that warrant additional time. 5 U.S.C. § 552(a)(6)(B).

18. An agency must provide expedited processing in cases "in which the person requesting the records demonstrates a compelling need". 5 U.S.C. § 552(a)(6)(E)(i)(I).

19. An agency must determine "whether to provide expedited processing" and provide "notice of the determination" to the person making the request "within 10 days after the date of the request". 5 U.S.C. § 552(a)(6)(E)(ii)(I).

20. An agency's failure to comply with any timing requirement is deemed constructive denial and satisfies the requester's requirement to exhaust administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

21. A FOIA requester who exhausts administrative remedies may petition the court for injunctive and declaratory relief from the agency's continued withholding of public records. 5 U.S.C. § 552(a)(4)(B).

## FACTUAL BACKGROUND

### Procedural Background:

22. Nominal Plaintiff Jay Gairson represents Plaintiffs Fatima Moujtahid and Badr Moujtahid ("Plaintiffs Moujtahid").

23. On October 25, 2018, Jay Gairson prepared a FOIA request on behalf of Plaintiffs Moujtahid that was submitted to Defendant NRC. EXHIBIT A.

24. The FOIA request was transmitted via email from [jay@gairson.com](mailto:jay@gairson.com) to the Defendants at [uscis.foia@uscis.dhs.gov](mailto:uscis.foia@uscis.dhs.gov) on October 25, 2018 as an attached PDF. EXHIBIT B.

25. Defendants failed to send a response of any type, whether written or electronic by mail, email, or fax.

26. On December 5, 2018, Jay Gairson, on behalf of Plaintiffs Moujtahid, emailed [uscis.foia@uscis.gov](mailto:uscis.foia@uscis.gov) a second time, with the FOIA attached as a PDF, and wrote, "On October 25, 2018, I emailed the attached FOIA request to USCIS. I requested expedited processing. It has now been more than 30 days since I filed the request, but I have not received any response including a receipt." EXHIBIT C.

27. On December 6, 2018, Defendants sent their first response via email from [foiapaquestions@uscis.dhs.gov](mailto:foiapaquestions@uscis.dhs.gov). The Defendants first sentence was, "In order to obtain your records, please submit a proper FOIA request." EXHIBIT D.

28. In their first email, the Defendants did not describe any specific inadequacy with the Plaintiffs' FOIA request.

29. On December 6, 2018, Jay Gairson responded to the Defendants' first email with an email written to [foiapaquestions@uscis.dhs.gov](mailto:foiapaquestions@uscis.dhs.gov) wherein he wrote, "The submitted request *IS proper*." EXHIBIT E.

30. On December 6, 2018, Defendants sent their second response via email from [foiapaquestions@uscis.dhs.gov](mailto:foiapaquestions@uscis.dhs.gov). Defendants wrote, "We were unable to locate your request in the system. We will get your attached request scanned in, backdating it as far back as our system will allow." EXHIBIT F.

31. More than 26 working days had passed between Plaintiffs initial request and Defendants email response indicating that they had not properly entered the request into their systems.

32. Subsequently, Plaintiffs commenced this lawsuit.

**Public Interest:**

33. The filed FOIA request requests information on entries of appearance and all forms prepared by or signed by Alexander Ying-Chi Chan, Maurice Terry, and Edwin Cruz (the "Subjects of Record").

34. The three Subjects of Record have each had multiple criminal and civil cases filed against them due to their immigration related activities.

35. Alexander Ying-Chi Chan is or has been the defendant in multiple lawsuits including the following:

a. King County Superior Court, #17-1-01105-0, *State of Washington v. Alexander Ying-Chi*; a criminal action for witness tampering; pending trial;

b. Pierce County Superior Court, #17-2-09677-1, *Guzman Rosales et seq. v. Maurice Terry, Edwin Cruz, and Alexander Ying-Chi Chan*; Washington Consumer Protection Act, Common Law Fraud, Federal RICO, Washington Criminal Profiteering, and Outrage; in discovery; Plaintiffs Moujtahid are the intervenor-plaintiffs in the *Guzman Rosales* case.

36. Maurice Terry is or has been the defendant in multiple lawsuits including the following in Pierce County Superior Court:

a. #11-2-12911-5, *State of Washington v. Edwin Cruz, Maurice Terry, EC Horizons, and EC New Horizons*; Washington Consumer Protection Act; entered into consent decree, which

was then violated by the defendants and the case was re-opened in 2015, and in 2018 new charges were brought for criminal intent and prohibited assistance with immigration matters;

b. #14-2-08816-2, *Paulo Chavez-Mendez v. Edwin Cruz & Maurice Terry*; Washington Consumer Protection Act for practicing immigration without a license; settled;

c. #17-2-09677-1, *Guzman Rosales et seq. v. Maurice Terry, Edwin Cruz, and Alexander Ying-Chi Chan*; Washington Consumer Protection Act, Common Law Fraud, Federal RICO, Washington Criminal Profiteering, and Outrage; in discovery; Plaintiffs Moujtahid are the intervenor-plaintiffs in the *Guzman Rosales* case;

d. #17-2-10018-3, *Aurelio Alonzo Ruelas v. Maurice Terry and Edwin Cruz*; violation of Washington's Immigration Services Fraud Prevention Act and its Consumer Protection Act; Terry dismissed.

37. Edwin Cruz is the defendant in multiple lawsuits including the following:

a. #11-2-12911-5, *State of Washington v. Edwin Cruz, Maurice Terry, EC Horizons, and EC New Horizons*; Washington Consumer Protection Act; entered into consent decree, which was then violated by the defendants and the case was re-opened in 2015, and in 2018 new charges were brought for criminal intent and prohibited assistance with immigration matters;

b. #14-2-08816-2, *Paulo Chavez-Mendez v. Edwin Cruz & Maurice Terry*; Washington Consumer Protection Act for practicing immigration without a license; settled;

c. #17-2-09677-1, *Guzman Rosales et seq. v. Maurice Terry, Edwin Cruz, and Alexander Ying-Chi Chan*; Washington Consumer Protection Act, Common Law Fraud, Federal RICO, Washington Criminal Profiteering, and Outrage; in discovery; Plaintiffs Moujtahid are the intervenor-plaintiffs in the *Guzman Rosales* case;

d. #17-2-10018-3, *Aurelio Alonzo Ruelas v. Maurice Terry and Edwin Cruz*; violation of Washington's Immigration Services Fraud Prevention Act and its Consumer Protection Act; pending.

- 1 38. Edwin Cruz and Maurice Terry have admitted to and have been found to be involved in the  
2 unlicensed practice of immigration law.
- 3 39. Edwin Cruz worked for the legacy Immigration and Naturalization Service (“INS”) in the  
4 1990s.
- 5 40. Maurice Terry worked for the legacy Immigration and Naturalization Service (“INS”) in the  
6 1990s.
- 7 41. Edwin Cruz’s employment with legacy INS was terminated for reasons that were not made  
8 public.
- 9 42. Maurice Terry’s employment with legacy INS was terminated for reasons that were not made  
10 public.
- 11 43. Edwin Cruz is not licensed as an attorney at law.
- 12 44. Maurice Terry is not licensed as an attorney at law.
- 13 45. After leaving legacy INS, Edwin Cruz started to work as an unlicensed provider of  
14 immigration services.
- 15 46. After leaving legacy INS, Maurice Terry started to work as an unlicensed provider of  
16 immigration services.
- 17 47. Edwin Cruz and Maurice Terry operated their immigration services businesses together  
18 under the names EC Horizons and EC New Horizons.
- 19 48. Alexander Ying-Chi Chan (an attorney) has been employed by or in partnership with Edwin  
20 Cruz and Maurice Terry.
- 21 49. Alexander Ying-Chi Chan has allegedly worked with multiple unlicensed practitioners of  
22 immigration law to cover up their mistakes.
- 23 50. The Subjects of Record are alleged to have worked together in a criminal organization in  
24 violation of the Federal RICO statutes.
- 25 51. The prevention, reporting, and prosecution of immigration fraud is in the interest of the  
26 public.
- 27 52. The prevention, reporting, and prosecution of unlicensed practice of law is in the interest of  
28 the public.



1 53. Plaintiffs Moujtahid, acting as private attorneys general through their attorney Jay Gairson,  
2 sued the Subjects of Record for RICO violations.

3 54. Plaintiffs Moujtahid, through their attorney Jay Gairson, are seeking information on the  
4 preparation of immigration forms, acts of representation, and entries of appearance by the  
5 Subjects of Record.

6 55. Plaintiffs Moujtahid intend to utilize the requested information to protect the public from the  
7 harms caused by the activities of the Subjects of Record and those who engage or  
8 contemplate engaging in similar tortious or criminal activity.

9 56. The FOIA requested, filed by Plaintiffs Moujtahid via their attorney Jay Gairson, is intended  
10 to obtain the information necessary to protect the public from the activities of the Subjects of  
11 Record and to prevent and discourage similar future scams by others.

12 57. The activities of the Subjects of Record, which includes acts of unlicensed practice of law  
13 and immigration fraud, are of interest to the public.

14 **Expedite Request:**

15 58. When the FOIA request was filed on October 25, 2018, it explicitly noted that discovery  
16 cutoff in Plaintiffs Moujtahid's Pierce County, Washington case (#17-2-09677-1) was  
17 November 15.

18 59. The Plaintiffs have been forced to file a motion to amend the trial date in their Pierce County  
19 case due to the Defendants delays in acknowledging and responding to their FOIA request.

20 60. The Defendants failure to respond is substantially interfering with the Plaintiffs Moujtahid's  
21 due process rights in their Pierce County case.

22 61. The Defendants failure to respond is preventing the Plaintiffs from exercising their duties as  
23 private attorneys general who have brought a RICO case against the Subjects of Record.

24 62. The Defendants failure to provide the records on an expedited basis allows the Subjects of  
25 Record to continue to harm immigrants and the public, which poses an imminent risk to  
26 public safety.

63. The Plaintiffs intend to disseminate the requested information to individuals, and the attorneys who may represent them, who allege that they have been harmed immigration related services provided by the Subjects of Record.

64. The Plaintiffs have a compelling need for the requested records due to the public interest in preventing the unlicensed practice of law and immigration fraud.

65. The Defendants failed to make a decision on whether to provide expedited processing for the Plaintiffs FOIA request within ten days of its being filed.

66. The Defendants failed to notify the Plaintiffs of their decision on whether to provide expedited processing for the Plaintiffs FOIA request within ten days of its being filed.

### **CLAIMS**

67. Defendants have failed to respond to Plaintiffs' FOIA request in a timely manner as required by statute and regulation.

68. Defendants have failed to consider Plaintiffs' expedite request in a timely manner as required by statute and regulation.

69. Defendants have failed to respond to Plaintiffs' expedite request in a timely manner as required by statute and regulation.

70. Defendants have failed to consider the strong public interests supporting the Plaintiffs' FOIA request.

71. Defendants have failed to adequately communicate with Plaintiffs.

72. Defendants have failed to enter the FOIA request into their system for consideration.

73. Defendants have failed to adequately search for the records requested by the Plaintiffs.

74. Defendants have failed to produce the records requested by the Plaintiffs.

75. Defendants have failed to comply with their statutory and regulatory duties.

76. The Plaintiffs have exhausted the applicable administrative remedies with respect to their FOIA request.

77. Defendants have wrongfully withheld the requested records from the Plaintiffs.

### **RELIEF**

A. Order the Defendants to conduct a thorough search for all responsive records;

- 1 B. Order the Defendants to disclose the requested records in their entireties and make copies  
2 available to the Plaintiffs;  
3 C. Order the Defendants to expedite the processing of the requested records;  
4 D. Enjoin the Defendants from charging Plaintiffs search, review, or duplication fees for  
5 processing of the FOIA request;  
6 E. Award Plaintiffs their costs and reasonable attorneys fees incurred in this action; and  
7 F. Grant such other relief as the Court may deem just and proper.  
8

9 Respectfully submitted this Twelfth day of December 2018.

10 By:

11 s/ Jay Gairson  
12 Jay Gairson, WSBA No. 43365  
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